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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/541,346 | 07/05/2005 | Eric R Cerny | 11899.0239.PCUS00 | 8966 |

45607 7590 01/29/2007
HOWREY LLP
C/O IP DOCKETING DEPARTMENT
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FALLS CHURCH, VA 22042

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| EXAMINER |
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KRUSE, DAVID H

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| ART UNIT | PAPER NUMBER |
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1638

| SHORTENED STATUTORY PERIOD OF RESPONSE | MAIL DATE | DELIVERY MODE |
|--|------------|---------------|
| 2 MONTHS | 01/29/2007 | PAPER |

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Request for Information under 37 CFR § 1.105

1. Applicant and the assignee of this application are required under 37 CFR § 1.105 to provide the following information that the examiner has determined is reasonably necessary to the examination of this application.

2. An issue of public use or on sale activity has been raised in this application. In order for the examiner to properly consider patentability of the claimed invention under 35 U.S.C. § 102(b), additional information regarding this issue is required as follows.

Applicant is reminded that failure to fully reply to this requirement for information will result in a holding of abandonment.

3. This request is being made for the following reasons:

The publication McCloskey *et al* May 2004, Arizona Cotton Report (P-138), pages 227-236 (attached hereto), indicates that Roundup Ready Flex Cotton, which comprises the cotton event MON 88913 of the instant invention, had been grown in 2002.

Applicants and the Assignee of this application are required under 37 CFR § 1.105 to provide the following information that the examiner has determined is reasonably necessary to the examination of this application.

The information is required to determine whether the plant was available to the public, accessibility of any foreign sales and the reproducibility of any plants that were sold to the public, more than one year prior to the effective filing date of this application.

4. In response to this requirement please provide:

a) information available regarding the first sale or other public distribution of the

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claimed plant anywhere in the United States more than one year prior to the effective filing date of this instant application, including date(s) and location of any sale or other public distribution including any public information available regarding sales, offers for sale, or public distributions of the claimed plant that occurred more than one year prior to the effective filing date of this application, including information pertaining to whether this was an obscure, solitary occurrence that would go unnoticed by those skilled in the art;

b) evidence of any restrictions placed upon the propagation, further sale/resale, or other further distribution of the plant;

c) information about who was distributing the plant in the United States that occurred more than one year prior to the filing date of the instant application. Please also provide information about who was distributing the plant outside the United States that occurred more than one year prior to the filing date of the instant application;

d) information about the relationship between the distributor(s) and the inventor and/or the assignee.

5. If Applicant views any or all of the above requested information as a Trade Secret, then Applicant should follow the guidance of MPEP § 724.02 when submitting the requested information.

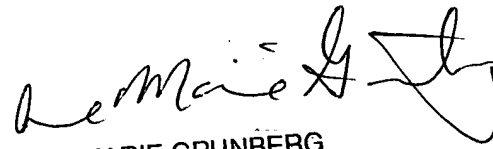
6. The fee and certification requirements of 37 CFR § 1.97 are waived for those documents submitted in reply to this requirement. This waiver extends only to those documents within the scope of this requirement under 37 CFR § 1.105 that are included in the applicant's first complete communication responding to this requirement. Any

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supplemental replies subsequent to the first communication responding to this requirement and any information disclosures beyond the scope of this requirement under 37 CFR § 1.105 are subject to the fee and certification requirements of 37 CFR § 1.97.

7. The applicant is reminded that the reply to this requirement must be made with candor and good faith under 37 CFR § 1.56. Where the applicant does not have or cannot readily obtain an item of required information, a statement that the item is unknown or cannot be readily obtained may be accepted as a complete reply to the requirement for that item.

8. This requirement is subject to the provisions of 37 CFR §§ 1.134, 1.135 and 1.136 and has a shortened statutory period of 2 months. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR § 1.136(a).


ANNE MARIE GRUNBERG
SUPERVISORY PATENT EXAMINER

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9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David H. Kruse, Ph.D. whose telephone number is (571) 272-0799. The examiner can normally be reached on Monday to Friday from 8:00 a.m. to 4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anne Marie Grunberg can be reached at (571) 272-0975. The central FAX number for official correspondence is 571-273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group Receptionist whose telephone number is (571) 272-1600.

DAVID H. KRUSE, PH.D.
PRIMARY EXAMINER



David H. Kruse, Ph.D.
10 January 2007

10. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to (571) 272-0547.

Patent applicants with problems or questions regarding electronic images that can be viewed in the Patent Application Information Retrieval system (PAIR) can now contact the USPTO's Patent Electronic Business Center (Patent EBC) for assistance. Representatives are available to answer your questions daily from 6 am to midnight (EST). The toll free number is (866) 217-9197. When calling please have your application serial or patent number, the type of document you are having an image problem with, the number of pages and the specific nature of the problem. The Patent Electronic Business Center will notify applicants of the resolution of the problem within 5-7 business days. Applicants can also check PAIR to confirm that the problem has been corrected. The USPTO's Patent Electronic Business Center is a complete service center supporting all patent business on the Internet. The USPTO's PAIR system provides Internet-based access to patent application status and history information. It also enables applicants to view the scanned images of their own application file folder(s) as well as general patent information available to the public.

For all other customer support, please call the USPTO Call Center (UCC) at 800-786-9199.